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Pearson, Simon, Soter, Warshaw & Penny, LLP ("PSSWP") is an AV-rated civil litigation firm with offices in Los Angeles and San Francisco. The firm specializes in complex litigation, including state coordination cases as well as federal multidistrict litigation. Its attorneys have extensive experience in antitrust, consumer protection, securities fraud, and unlawful employment practices. The firm handles both national and multi-national class actions that present cutting edge issues in both substantive and procedural areas. PSSWP attorneys understand how to litigate difficult and large cases in an efficient and cost effective manner, and they have used these skills to obtain outstanding results for their clients, both through trial and negotiated settlement. They are recognized in their field for excellence and integrity, and are committed to seeking justice for their clients.

## CASE PROFILES

PSSWP attorneys currently hold, or have held, a leadership role in the following representative cases:

- *In re Flash Memory Antitrust Litigation*, Northern District of California, Case No. C07-0086 SBA. PSSWP partner Bruce L. Simon is currently one of two co-lead counsel for the direct purchaser plaintiffs in this class action involving the price-fixing of flash memory. PSSWP is responsible for supervising the direct purchaser plaintiffs' prosecution of the case and coordinating with the United States Department of Justice's ongoing criminal investigation.
- *In re TFT-LCD (Flat Panel) Antitrust Litigation*, Northern District of California, MDL No. 1827. PSSWP partner Bruce L. Simon is currently one of two co-lead counsel for the direct purchaser plaintiffs in this multidistrict litigation arising from the price-fixing of thin film transistor liquid crystal display panels. Worldwide, the TFT-LCD industry is a \$69 billion industry, and many believe that this proceeding is the largest price-fixing litigation pending in the country.

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- *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, Northern District of California, MDL No. 1486. PSSWP partner Bruce L. Simon was one of the principal attorneys involved in this multidistrict litigation arising from the price-fixing of DRAM, a form of computer memory. Mr. Simon served as the co-chair of discovery, supervising and coordinating the review of almost a terabyte of electronic documents, setting and taking depositions, establishing and implementing protocols for cooperation between the direct and indirect plaintiffs as well as the Department of Justice, presenting oral arguments on discovery matters, working with defendants on evidentiary issues in preparation for trial, and preparation of a comprehensive pretrial statement. Shortly before the scheduled trial, class counsel reached settlements with the last remaining defendants, bringing the total value of the class settlements to over \$325 million.
- *In re Methionine Antitrust Litigation*, Northern District of California, MDL No. 1311. PSSWP partner Bruce L. Simon served as co-lead counsel in this nationwide antitrust class action involving a conspiracy to fix prices of, and allocate the markets for, methionine. Mr. Simon was personally responsible for many of the discovery aspects of the case including electronic document productions, coordination of document review teams, and depositions. Mr. Simon argued pretrial motions, prepared experts, and assisted in the preparation of most pleadings presented to the Court. This action resulted in over \$100 million in settlement recovery for the Class.
- *In re Sodium Gluconate Antitrust Litigation*, Northern District of California, MDL No. 1226. PSSWP partner Bruce L. Simon served as class counsel in this consolidated antitrust class action arising from the price-fixing of sodium gluconate. Mr. Simon was selected by Judge Claudia Wilken to serve as lead counsel amongst many other candidates for that position, and successfully led the case to class certification and settlement.
- *In re Citric Acid Antitrust Litigation*, Northern District of California, MDL No. 1092. PSSWP partner Bruce L. Simon served as class counsel in antitrust class actions against Archer-Daniels Midland Co. and others for their conspiracy to fix the prices of citric acid, a food additive product. Mr. Simon was one of the principal attorneys involved in discovery in this matter. This proceeding resulted in over \$80 million settlements for the direct purchasers.

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- *In re Homestore Litigation*, Central District of California, Master File No. 01-11115. PSSWP attorneys served as liaison counsel and class counsel for plaintiff CalSTRS in this securities class action. The case has resulted in over \$100 million in settlements to the Class to date.
- *In re MP3.Com, Inc., Securities Litigation*, Southern District of California, Master File No. 00-CV-1873. PSSWP attorneys served as defense counsel in this class action involving alleged securities violations under Rule 10b-5.
- *In re Automotive Refinishing Paint Cases*, Alameda County Superior Court, Judicial Council Coordination Proceeding No. 4199. PSSWP attorneys served as class counsel with other law firms in this coordinated antitrust class action alleging a conspiracy by defendants to fix the price of automotive refinishing products.
- *In re Beer Antitrust Litigation*, Northern District of California, Case No. 97-20644 SW. PSSWP partner Bruce L. Simon served as primary counsel in this antitrust class action brought on behalf of independent micro-breweries against Anheuser-Busch, Inc. for its attempt to monopolize the beer industry in the United States by denying access to distribution channels.
- *In re Commercial Tissue Products Public Entity Indirect Purchaser Antitrust Litigation*, San Francisco Superior Court, Judicial Counsel Coordination Proceeding No. 4027. PSSWP partner Bruce L. Simon served as co-lead counsel for the public entity purchaser class in this antitrust action arising from the price-fixing of commercial sanitary paper products.
- *Hart v. Central Sprinkler Corporation*, Los Angeles County Superior Court, Case No. BC176727. PSSWP attorneys served as class counsel in this consumer class action arising from the sale of nine million defective fire sprinkler heads. This case resulted in a nationwide class settlement.
- *Rueda v. Schlumberger Resources Management Services, Inc.*, Los Angeles County Superior Court, Case No. BC235471. PSSWP attorneys served as class counsel with other law firms representing customers of the Los Angeles Department of Water & Power ("LADWP") who had lead leaching water meters installed on their property. The Court granted final approval of the settlement whereby defendant would pay \$1.5 million to a *cy pres* fund to benefit the Class and to make grants to LADWP to assist in implementing a replacement program to the effected water meters.

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- *In re Louisiana-Pacific Corp. Inner-Seal OSB Trade Practices Litigation*, Northern District of California, MDL No. 1114. PSSWP partner Bruce L. Simon worked on this nationwide product defect class action brought under the Lanham Act. The proposed class was certified, and a class settlement was finally approved by Chief Judge Vaughn Walker.
- *In re iPod nano Cases*, Los Angeles County Superior Court, Judicial Counsel Coordination Proceeding No. 4469. PSSWP attorneys were appointed co-lead counsel for this class action brought on behalf of California consumers who own defective iPod nanos.
- *Unity Entertainment Corp. v. MP3.Com*, Central District of California, Case No. 00-11868. PSSWP attorneys served as defense counsel in this class action alleging copyright infringement.
- *Vallier v. Jet Propulsion Laboratory*, Central District of California, Case No. CV97-1171. PSSWP attorneys served as lead counsel in this toxic tort action involving 50 cancer victims and their families.
- *Nguyen v. First USA N.A.*, Los Angeles County Superior Court, Case No. BC222846. PSSWP attorneys served as class counsel on behalf of approximately four million First USA credit card holders whose information was sold to third party vendors without their consent. This case ultimately settled for an extremely valuable permanent injunction plus disgorgement of profits to worthy charities.
- *Morales v. Associates First Financial Capital Corporation*, San Francisco Superior Court, Judicial Council Coordination Proceeding No. 4197. PSSWP attorneys served as class counsel in this case arising from the wrongful sale of credit insurance in connection with personal and real estate-secured loans. This case resulted in an extraordinary \$240 million recovery for the Class.
- *In re AEFA Overtime Cases*, Los Angeles County Superior Court, Judicial Council Coordination Proceeding No. 4321. PSSWP attorneys served as class counsel in this overtime class action on behalf of American Express Financial Advisors, which resulted in an outstanding classwide settlement.

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- *Khan v. Denny's Holdings, Inc.*, Los Angeles County Superior Court, Case No. BC177254. PSSWP attorneys settled a class action lawsuit against Denny's for non-payment of overtime wages to its managers and general managers.
- *Kosnik v. Carrows Restaurants, Inc.*, Los Angeles County Superior Court, Case No. BC219809. PSSWP attorneys settled a class action lawsuit against Carrows Restaurants for non-payment of overtime wages to its assistant managers and managers.
- *Castillo v. Pizza Hut, Inc.*, Los Angeles County Superior Court, Case No. BC318765. PSSWP attorneys served as lead class counsel in this California class action brought by delivery drivers who claimed they were not adequately compensated for use of their personally owned vehicles. This case resulted in a statewide class settlement.
- *Baker v. Charles Schwab & Co., Inc.*, Los Angeles County Superior Court, Case No. BC286131. PSSWP attorneys served as class counsel for investors who were charged a fee for transferring out assets between June 1, 2002 and May 31, 2003. This case resulted in a nationwide class settlement.
- *Eallonardo v. Metro-Goldwyn-Mayer, Inc.*, Los Angeles County Superior Court, Case No. BC286950. PSSWP attorneys served as class counsel on behalf a nationwide class of consumers who purchased DVDs manufactured by defendants. Plaintiffs alleged that defendants engaged in false and misleading advertising relating to the sale of its DVDs. This case resulted in a nationwide class settlement.
- *Gaeta v. Centinela Feed, Inc.*, Los Angeles County Superior Court, Case No. BC342524. PSSWP attorneys served as defense counsel in this class action involving alleged failures to pay wages, overtime, employee expenses, waiting time penalties, and failure to provide meal and rest periods and to furnish timely and accurate wage statements.
- *Leiber v. Consumer Empowerment Bv A/K/A Fasttrack*, Central District of California, Case No. CV 01-09923. PSSWP attorneys served as defense counsel in this class action involving copyrighted music that was made available through computer file sharing service without the publishers' permission.

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## **ATTORNEY PROFILES**

Following are brief professional biographies of PSSWP's founding partners:

### **Clifford H. Pearson**

Clifford H. Pearson is a civil litigator and business lawyer with extensive experience in complex litigation, class actions, and unfair competition law. Mr. Pearson has been involved in the successful prosecution of numerous class actions, including *Hart v. Central Sprinkler Corporation*, *In re Homestore.com Securities Litigation*, among others. He is a member of the State Bar of California; U.S. District Court, Central District of California; U.S. District Court, Southern District of California; U.S. Court of Appeals, Ninth Circuit; and a Practitioner of Foreign Law in British Columbia, Canada. He attended Carleton University (B.A., 1976); the University of Miami (M.B.A., 1978); and Whittier College (J.D., 1981).

Mr. Pearson has attained Martindale-Hubbell's highest rating (AV) for legal ability and ethical standards. In 2006, Mr. Pearson was selected as a Super Lawyer, representing the top 5% of practicing lawyers in Southern California. Mr. Pearson is an active member in the American Bar Association; Canadian American Bar Association; Los Angeles County Bar Association; The American Association for Justice; and the Consumer Attorneys of California.

### **Bruce L. Simon**

Bruce L. Simon specializes in complex cases involving antitrust, consumer fraud, and securities cases. Mr. Simon has served as lead or co-lead counsel in several nationwide antitrust class actions including *In re Sodium Gluconate Antitrust Litigation* (N.D. Cal., MDL No. 1226), an antitrust case involving a food additive product; *In re Methionine Antitrust Litigation* (N.D. Cal., MDL No. 1311), an antitrust class action that resulted in over \$100 million in settlements; and *In re Citric Acid Antitrust Litigation* (N.D. Cal., MDL No. 1092), which resulted in over \$80 million in settlements for direct purchasers.

More recently, Mr. Simon served as co-chair of discovery in *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation* (N.D. Cal., MDL No. 1486), which settled for over \$325 million to the direct purchaser class. In that case, Mr. Simon was one of the principal attorneys involved in supervising the review of a multi-million page electronic document production and the taking of over 100 depositions, all in coordination with the indirect purchaser plaintiffs and the government. Currently, Mr. Simon is serving as interim

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co-lead counsel for the direct purchaser plaintiffs in *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D. Cal., MDL No. 1827) and *In re Flash Memory Antitrust Litigation* (N.D. Cal., Case No. C07-0086 SBA).

Mr. Simon has also litigated and tried securities and investment fraud cases, and has particular expertise in cases where the fraud was committed with the assistance of professionals. He tried the Osborne Securities case in Santa Clara County and won a multi-million dollar jury verdict. That case involved critical issues about the responsibilities of accountants and eventually went to the Supreme Court, setting standards for accounting liability in California. He also represented Union Bank in a case against a national accounting firm, and obtained a \$7 million jury verdict that was upheld on appeal.

Mr. Simon is a frequent speaker on trial strategies in business cases, and has lectured throughout the United States and internationally. He is a past chair of the California State Bar's Antitrust and Unfair Competition Section and the Business Torts Section of the American Trial Lawyers Association. Mr. Simon is the co-author of the *Matthew Bender Practice Guide: California Unfair Competition and Business Torts* (2004), which provides in-depth and practical coverage of the state's Unfair Competition Law, as well as antitrust law and other commonly prosecuted business torts.

Mr. Simon earned a bachelor's degree in political science at the University of California at Berkeley in 1977. He received his law degree from Hastings College of Law in 1980. He currently serves on the Board of Directors for Hastings College of the Law.

**Gary S. Soter**

Gary S. Soter received his bachelor's degree from the University of California at Los Angeles in 1971 and his law degree from Southwestern School of Law in 1975. After graduation from law school, he worked as a lecturer, instructor, associate professor, and adjunct professor of law at Southwestern School of Law until 1979, when he began his private practice. Mr. Soter is experienced in complex litigation, including class action litigation involving consumer rights and insurance law. He has had more than 30 jury trials and more than 50 court trials in a wide variety of areas including professional liability, insurance bad-faith, personal injury, and business disputes.

Mr. Soter has extensive experience in coordinated and consolidated class actions and is currently working on *In re Inphonic, Inc. Wireless Phone Rebate Litigation*, *In re Homestore.com Securities Litigation*, *Holzman v. Farmers*, and *Ward v. ServiceMaster* among others.

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In 2004, 2005 and 2006, Mr. Soter was selected as a Super Lawyer, representing the top 5% of practicing lawyers in Southern California. Mr. Soter is an active member of the American Bar Association and the Los Angeles County Bar Association.

**Daniel L. Warshaw**

Daniel L. Warshaw is a civil litigator and trial lawyer who focuses on complex litigation, class actions, employment law, business litigation, products liability, consumer protection, and unfair competition law. Mr. Warshaw has had a lead role in numerous class actions, both in state and federal court. He is currently involved in antitrust class actions involving the airline and semiconductor industries. In addition, he is actively involved in PSSWP's ongoing investigations of the high technology industry for possible antitrust violations.

Mr. Warshaw is a member of the State Bar of California; U.S. District Court, Central District of California; U.S. District Court, Northern District of California; U.S. District Court, Southern District of California; and U.S. Court of Appeals, Ninth Circuit. He attended the University of Southern California (B.S., 1992); and Whittier College School of Law (J.D., 1996). He has attained Martindale-Hubbell's highest rating (AV) for legal ability and ethical standards.

Mr. Warshaw is a member of the Los Angeles County Bar Association, American Bar Association, and Consumer Attorneys of California. From 2005 to the present, Mr. Warshaw was selected as a Super Lawyer, representing the top 5% of practicing lawyers in Southern California.

Mr. Warshaw worked as a research attorney and assisted in the preparation of Jones, Rosen, Wegner & Jones, *Rutter Group Practice Guide: Federal Civil Trials & Evidence*.

**Theodore A. Penny**

Theodore A. Penny is a civil litigator focusing on workers compensation, subrogation, and employment law. Mr. Penny is a member of the State Bar of California and a Certified Specialist, Workers' Compensation Law, The State Bar of California Board of Legal Specialization. He attended the University of California at Los Angeles (B.A., cum laude, 1971); and University of Southern California (J.D., 1974). Mr. Penny has attained Martindale-Hubbell's highest rating (AV) for legal ability and ethical standards. He served as

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a frequent lecturer for industry and academic groups, including lecturer at UCLA Extension, California Self Insurance Association, and California Manufacturers Association.

Mr. Penny served as Technical Advisor for the California Manufacturers Association; Workers' Compensation Committee, legislative advisory counsel for California Chamber of Commerce, 1994; General Counsel, Californians for Workers' Compensation Reform, 2000 – 2002; and General Counsel, Independent Business Coalition, 2004. He is currently a member of the workers' compensation appellate committee of the California Chamber of Commerce, the Los Angeles County Bar Association (Member, Executive Board, Workers' Compensation Section), and American Bar Association. In 2006, Mr. Penny was selected as a Super Lawyer, representing the top 5% of practicing lawyers in Southern California.